

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

McNEIL NUTRITIONALS, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-69-GMS
	)	
THE SUGAR ASSOCIATION, et al.,	)	
	)	
Defendants.	)	

**DECLARATION OF JOHN G. DAY**

I, JOHN G. DAY, hereby state and declare as follows:

1. I am associated with the law firm of Ashby & Geddes, local counsel to plaintiff McNeil Nutritionals, LLC ("McNeil") in the above action. I submit this declaration in support of McNeil's Opposition to Defendants' Motion to Dismiss.

2. Earlier this month, several of my co-workers and I (all of whom are residents of Delaware) accessed defendant The Sugar Association's "Truth About Splenda" website on the Internet at <http://www.truthaboutsplenda.com>.

3. The Truth About Splenda website includes a page entitled "Contact Us," which states:

If you wish to learn more about the chlorinated artificial sweetener Splenda, or would like to join the *Truth About Splenda* email list or want to share your own experience with Splenda, please enter your name, email address and comments below. We would also like to hear your feedback on the *Truth About Splenda* website.

A true and correct copy of the "Contact Us" webpage, which can be found at <http://www.truthaboutsplenda.com/contact/index.html>, is attached as Exhibit 35.

4. The Truth About Splenda website also includes a page entitled “Join Our Cause,” which states:

Splenda’s chemical make-up and the lack of long-term human health studies performed on the product should be cause for concern. Splenda’s misleading advertising campaign may compare it with all-natural sugar, but the truth is that Splenda is a chlorinated artificial sweetener.

If you are personally concerned with Splenda’s chemical composition and/or its misleading advertising, now you can do something about it.

If you would like to join the thousands of people who are working to tell others the truth about Splenda, please fill out the form below. We will add you to our database of advocates and contact you to assist in future efforts to expose Splenda as a chlorinated artificial sweetener that consumers deserve to know is in foods they eat.

A true and correct copy of the “Join Our Cause” webpage, which can be found at

<http://www.truthaboutsplenda.com/takeaction/cause.html>, is attached as Exhibit 36.

5. The Truth About Splenda website also includes a page entitled “Opt-in for Updates,” which states:

If you would like to receive the latest, most up-to-date information about Splenda, including future research studies, testimonials by nutritionists and toxicologists who have studied sucralose’s effects on the human body, and relevant articles questioning the safety or marketing practices of Splenda, please enter your name and email address below and click “submit”.

A true and correct copy of the “Opt-in For Updates” webpage, which can be found at

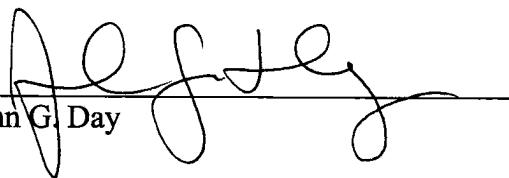
<http://www.truthaboutsplenda.com/takeaction/updates.html>, is attached as Exhibit 37.

6. My coworkers and I each provided our first and last names, towns, states, and email addresses on the “Contact Us” and “Join Our Cause” webpages, and our first and last names and email addresses at the “Opt-in For Updates” webpage.

7. On Monday July 25, 2005, my co-workers and I each received an email from “Truth About Splenda” >info@truthaboutsplenda.com, entitled “Splenda Ads by Johnson & Johnson Are Misleading, says Advertising Standards Board.” A true and correct copy of the

email we received from The Sugar Association's "Truth About Splenda" website is attached as Exhibit 38.

I declare under penalty of perjury that to the best of my knowledge, information and belief, the foregoing statements are true and correct. Executed on July 29, 2005 in Wilmington, Delaware.

  
John G. Day

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